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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/691,275	10/22/2003	Deborah A. Green	731301.1010	4935
24504 7590 04/15/2009 THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 600 GALLERIA PARKWAY, S.E. STE 1500 ATLANTA, GA 30339-5994				
EXAMINER				
SAADAT, CAMERON				
ART UNIT		PAPER NUMBER		
3715				
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04/15/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/691,275

**Applicant(s)**

GREEN ET AL.

**Examiner**

CAMERON SAADAT

**Art Unit**

3715

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 24-26, 28-32, 34-40 and 42-53 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 is/are allowed.
- 6) ☒ Claim(s) 24-26, 28-32, 34-40, and 42-53 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/8/2008 and supplemental amendment filed 1/14/2009 has been entered. Claims 24-26, 28-32, 34-40, and 42-53 are pending. Claims 1-23, 27, 33, and 41 are cancelled.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim(s) 39-40 and 42-46 are rejected under 35 USC 101 as being directed to non-statutory subject matter because these are method or process claims that do not transform underlying subject matter (such as an article or materials) to a different state or thing, nor are they tied to another statutory class (such as a particular machine). See Diamond v. Diehr, 450 U.S. 175, 184 (1981) (quoting Benson, 409 U.S. at 70); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978) (citing Cochrane v. Deener, 94 U.S. 780, 787-88 (1876)). See also In re Bilski (Fed Cir, 2007-1130, 10/30/2008) where the Fed. Cir. held that method claims must pass the "machine-or-transformation test" in order to be eligible for patent protection under 35 USC 101.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

**Claims 24-26, 28-37, 47, 50, and 52-53 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ringland et al. (US 5,751,829; hereinafter Ringland in view of Masters (US 6,572,377)).**

Regarding claims 24, 50, 52-53, Ringland discloses a computerized interior design system and method including a memory that stores data defining images of a plurality of window treatment design components (see Col. 18, lines 42-44) and a digital photograph of a wall and a window within the wall (See Col. 17, line 61 – Col. 18, line 6); logic configured to receive an input from a user, selecting a window treatment design component (See Search Screen depicted in Fig. 9, window treatments product category 906); based on the input a rendering engine superimposes the window treatment design on the digital image of the wall and window (See

Col.18, lines 11-23). Ringland discloses the claimed feature of scaling in order to provide a room image that shows selected materials installed with correct perspective. See Col. 18, lines 7-9, 16-18. Ringland does not explicitly disclose the claimed feature of receiving an input indicating a value for a distance from a first location to a second location. However, Masters teaches a computerized interior design system that allows a user to input dimensions of a room and elements such as windows. See Col. 4, line 64 - Col. 5, line 4. Thus, in view of Masters, it would have been obvious to one of ordinary skill in the art to modify the interior design system described in Ringland by allowing a user to input distances in order to provide a realistic perspective of room images and decorative materials that are being considered by a designer for installation in the room.

Additionally, Ringland discloses a cost calculation feature that calculates the number of rolls of wallpaper needed and the associated cost based on a user input of dimensions of a room (See Col. 19, lines 29-33). Ringland does not explicitly disclose that the concept of cost calculation with window treatments. However, it is the examiner's position that it would have been obvious to one of ordinary skill in that art to modify the cost calculation feature described in Ringland by applying it to any decorative material, such as window treatments, in order to determine whether or not a particular home improvement will fit in a user's budget.

Regarding claims 25-26 and 28, Ringland discloses the claimed feature of scaling in order to provide a room image that shows selected materials installed with correct perspective. See Col. 18, lines 7-9, 16-18. Ringland does not explicitly disclose the claimed feature of receiving an input indicating a value for a distance from a first location to a second location. However, Masters teaches a computerized interior design system that allows a user to input

dimensions of a room and elements such as windows. See Col. 4, line 64 - Col. 5, line 4. Thus, in view of Masters, it would have been obvious to one of ordinary skill in the art to modify the interior design system described in Ringland by allowing a user to input distances in order to provide a realistic perspective of room images and decorative materials that are being considered by a designer for installation in the room.

Regarding claims 34-35, Ringland discloses a cost calculation feature that calculates the number of rolls of wallpaper needed and the associated cost based on a user input of dimensions of a room (See Col. 19, lines 29-33). Ringland does not explicitly disclose that the concept of cost calculation with window treatments. However, it is the examiner's position that it would have been obvious to one of ordinary skill in that art to modify the cost calculation feature described in Ringland by applying it to any decorative material, such as window treatments, in order to determine whether or not a particular home improvement will fit in a user's budget.

Regarding claims 29 and 31, the combination of Ringland and Masters does not explicitly disclose a text field for entering a value for a distance. However, the examiner takes official notice that text fields are an old and well known type of user interface for allowing a user to input information. Therefore, it would have been obvious to one of ordinary skill in the art to modify the interface described in Ringland and Masters for entering dimensions, by providing a text field in order to allow a user to input dimensions by typing alphanumeric characters.

Regarding claims 30 and 32, the combination of Ringland and Masters does not explicitly disclose an arrow extending from a first object to a second object. However, the examiner takes official notice that it is old and well known to use arrows between two objects in order to specify a distance between the two objects. Therefore, it would have been obvious to an artisan to

modify the graphical references described in Ringland and Masters, by providing an arrow between two objects in order to specify a specific distance between the objects.

Regarding claims 36-37, Ringland discloses a cost calculation feature that calculates the number of rolls of wallpaper needed and the associated cost based on a user input of dimensions of a room (See Col. 19, lines 29-33). Ringland does not explicitly disclose that the concept of cost calculation based on the amount of fabric needed for a window treatment. However, it is the examiner's position that it would have been obvious to one of ordinary skill in that art to modify the cost calculation feature described in Ringland by applying it to any decorative material, such as window treatments, in order to determine whether or not a particular home improvement will fit in a user's budget.

***Allowable Subject Matter***

Claim 38 is allowed.

Claims 48-49 and 51 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 39-40 and 42-46 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101 set forth in this Office action.

The following is an examiner's statement of reasons for allowance: Patentability seen in, although not limited to independent claims 38 and 39 and dependent claims 48 and 51: the combination of elements specifically claimed including the features of calculating cost based on a plurality of values including a value indicative of an estimated amount of fabric for a break.

The closest prior art of record does not teach or fairly suggest the claimed features in combination. Any comments considered necessary by applicant must be submitted no later than

the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Response to Arguments***

Applicant's arguments with respect to claims 24 and 52 have been considered but are not persuasive. Applicant emphasizes that the room scenes in Ringland are not the same as the claimed photographs of rooms. However, it is the examiner's position that it would have been obvious to one of ordinary skill in the art to provide a photograph of a room in order to provide a realistic model that is unique to a particular user, in order to provide a more realistic expectation of how a product would look with a particular room.

Applicant further asserts that unlike the cost calculation for wall paper the room dimensions entered by the user in Ringland cannot be effectively used to provide an accurate estimate of cost of a window treatment design component. The examiner respectfully disagrees. Ringland discloses a cost calculation feature that calculates the number of rolls of wallpaper needed and the associated cost based on a user input of dimensions of a room (See Col. 19, lines 29-33). Ringland does not explicitly disclose that the concept of cost calculation based on the amount of fabric needed for a window treatment. However, it is the examiner's position that it would have been obvious to one of ordinary skill in that art to modify the cost calculation feature described in Ringland by applying it to any interior design project or decorative material, such as window treatments, in order to determine whether or not a particular home improvement will fit in a user's budget.



***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CAMERON SAADAT whose telephone number is (571)272-4443. The examiner can normally be reached on M-F 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on (571) 272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Cameron Saadat/  
Primary Examiner, Art Unit 3715